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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/760,202      | 01/21/2004  | Kia Silverbrook      | RRA03US             | 1355             |

24011 7590 10/17/2005

SILVERBROOK RESEARCH PTY LTD  
393 DARLING STREET  
BALMAIN, 2041  
AUSTRALIA

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| EXAMINER |
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HUFFMAN, JULIAN D

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2853

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                                  |  |
|------------------------------|-------------------------------|----------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/760,202 | Applicant(s)<br>SILVERBROOK, KIA |  |
|                              | Examiner<br>Julian D. Huffman | Art Unit<br>2853                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/8/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-7 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 4-9 of copending Application No. 10/760254. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims of 10/760,202

Claims of 10/760254

|  |  |
|--|--|
| <p>Claim 1, line 1: An inkjet printer cartridge including:</p> <p>Line 2: a body including:</p> <p>Line 3: a printing fluid storage</p> <p>Lines 4-5: a printhead including at least 20,000 printing fluid delivery nozzles in communication with the printing fluid storage</p> | <p>Claim 1, line 1: A printer cartridge for an inkjet printer including:</p> <p>Line 2: a printing fluid storage</p> <p>Claim 4: printhead includes at least 20,000 printing fluid delivery nozzles in fluid communication with the printing fluid storage</p> |
| <p>Claim 2: wherein the printhead includes at least 30,000 printing fluid delivery nozzle in fluid communication with the printing fluid storage</p>   | <p>Claim 5: printhead includes at least 30,000 printing fluid delivery nozzles in fluid communication with the printing fluid storage</p>  |
| <p>Claim 3: wherein the printhead comprises a pagewidth printhead</p>  | <p>Claim 1, line 3, a pagewidth printhead</p>  |
| <p>Claim 4: wherein the printing fluid storage includes one or more storage reservoirs for separately storing one or more printing fluids for printing</p>   | <p>Claim 6: wherein the printing fluid storage includes one or more storage reservoirs for storing an ink for printing</p>   |

|  |   |
|--|---|
| Claim 5: wherein the one or more printing fluids is a set of coloured inks sufficient for colour printing  | Claim 7: wherein the one or more storage reservoirs separately store a set of colored inks sufficient for color printing                                |
| Claim 6: wherein the one or more printing fluids includes an ink fixative for facilitating fixing of ink following delivery by said fluid delivery nozzles | Claim 8: wherein the one or more storage reservoirs also separately store an ink fixative to aid in fixing the ink delivered by the pagewidth printhead |
| Claim 7: wherein the one or more printing fluids includes an infrared ink  | Claim 9: wherein the one or more storage reservoirs separately store an infra-red ink for printing  |

The conflicting claims are not identical.

Claim 1 of the present application recites a body including the printing fluid storage and printhead, which is not claimed in claims 4-9 of the '254 application.

Claim 6 of the present application recites fixing of ink following delivery by said fluid delivery nozzles, while claim 8 of the '254 application recites fixing the ink delivered by the pagewidth printhead.

However, the claims are not patentably distinct since one of ordinary skill in the art at the time of the invention would have recognized that:

the ink cartridge itself is equivalent to a body portion since it is a cartridge which acts as a body portion for the fluid storage and printhead; and

the pagewidth printhead delivers the ink via the nozzles.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Silverbrook (US 20020154189 A1).

Silverbrook discloses:

With regards to claim 1, an inkjet printer cartridge (figs. 3 and 9) including:

a body (fig. 3, the cartridge has a body, 0025, 0051) including,

a printing fluid storage (0055, fig. 9, the rectangular portions below the printheads represent the fluid storage), and

a printhead including at least 20,000 printing fluid delivery nozzles in fluid communication with the printing fluid storage (printhead chips together make up a pagewidth printhead, which is mounted on the cartridge of fig. 3, 0044-0045, 0089, 0090).

With regards to claim 2, a printer cartridge according to claim 1, wherein the printhead includes at least 30,000 printing fluid delivery nozzles in fluid communication with the printing fluid storage (0090).

With regards to claim 3, a printer cartridge according to claim 2, wherein the printhead comprises a pagewidth printhead (0090).

With regards to claim 4, a printer cartridge according to claim 3, wherein the printing fluid storage includes one or more storage reservoirs for separately storing one or more printing fluids for printing (0056, fig. 9, the rectangular portions below the printheads represent the fluid storage, which includes multiple storage reservoirs).

With regards to claim 5, a printer cartridge according to claim 4, wherein the one or more printing fluids is a set of coloured inks sufficient for colour printing (0056, CMYK).

With regards to claim 6, a printer cartridge according to claim 5, wherein the one or more printing fluids includes an ink fixative for facilitating fixing of ink following delivery by said fluid delivery nozzles (0056).

With regards to claim 7, a printer cartridge according to claim 6, wherein the one or more printing fluids includes an infrared ink (0056).

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian D. Huffman whose telephone number is (571) 272-2147. The examiner can normally be reached on 9:30a.m.-6:00p.m. Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julian D. Huffman  
14 October 2005